

# HOW A TRADE AGREEMENT IS MADE

DEPARTMENT OF STATE

★ OFFICE OF PUBLIC AFFAIRS

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The decisions involved in making a trade agreement are made by the President, for it is to him that the authority to negotiate trade agreements within certain limits has been given by the Congress in the Trade Agreements Act of 1934. This act, which became a law on June 12 of that year and has since been renewed six times, empowers the President to conclude trade agreements with other countries. In return for reductions in their barriers against American goods, he may modify U.S. tariff treatment or other import restrictions on goods from abroad. U.S. concessions may consist of (a) a reduction in the U.S. tariff rate, (b) binding of that rate, i.e. an agreement not to increase the rate, or (c) a binding of duty-free status, i.e. agreement not to impose a duty on an article which is admitted free of duty when the agreement is concluded.

In making decisions under the Trade Agreements Act, the President is required by law to consult the Departments of State, Commerce, Agriculture, and Defense and the Tariff Commission. In practice, he gets a broader range of advice for he has, by Executive order, set up an interdepartmental group called the Trade Agreements Committee, which includes not only the agencies that he is required by law to consult but also representatives of the Departments of Labor, Interior, and the Treasury and the Economic Cooperation Administration. From time to time other Departments and agencies are consulted when problems of particular interest to them arise.

## FIRST STEP - THE COUNTRY COMMITTEE

The first thing done in preparing for a negotiation with a particular country - call it Country X - is for the Trade Agreements Committee to appoint a so-called country committee: a committee made up of officers of the different agencies which have members on the Trade Agreements Committee. These officers are selected because they are experts on our trade with Country X. This country committee then studies the statistics of this trade and picks out for possible tariff negotiation the products which we import from Country X and for which Country X is the principal supplier. The committee also chooses the items which Country X imports and for which the United States is the principal supplier. It may also include in the list of that country's imports some products in which our exporters have a particular interest, even though we may not be the principal

supplier. Conversely, it may also include in the list of U.S. import items some products which are of particular interest to Country X, although it may not be the principal supplier.

## TRADE AGREEMENTS COMMITTEE MAKES RECOMMENDATIONS

Having done this, the Trade Agreements Committee sends the list of U.S. import items to the President for approval.

When the President has approved the list with such changes as he may wish to make, it is published and a date is set for public hearings to obtain the views of all interested persons and groups as to whether concessions on any of the items should be made. These hearings are held by the Committee for Reciprocity Information, which is composed of the same agencies and the same individuals as the Trade Agreements Committee. Originally the two committees had different membership, but it was decided some time ago that it was very important that the people who hear the views of the public be the same as those who make the recommendations to the President.

The notice that goes out with the list makes the following points clear:

1. That everyone who has an interest in the items on the list is invited to make known his views about whether a concession should be granted.
2. That the inclusion of a product in the list does not mean that any decision has been made as to whether a concession will or will not be granted.
3. That no concession will be granted on any product which is not contained in a public list.
4. That interested people are requested to give the Committee their opinions as to concessions which should be asked by the U.S. from the other countries with which it is negotiating, as well as their views about possible concessions in the U.S. tariff.
5. The time and place at which briefs must be filed and the time and place at which the hearings will be held.

## INTERESTED PERSONS PRESENT VIEWS

A very considerable effort is made to see that this list and notice get the widest possible distribution. Both are published in the Federal Register, and the notice is published in the State Department Bulletin, Treasury Decisions, and Foreign Commerce Weekly. Copies are sent to every Member of Congress and in quantity to all the district offices of the Department of Commerce for dissemination to interested people. Over the course of the years, an extensive list of people who are interested in hearing about trade-agreement matters has been built up, and copies of the notice and the public list are sent to everyone on it. Moreover, many of the trade associations, trade journals, chambers of commerce,

and so forth frequently purchase quantities of the notice and list for distribution to their members. The list and notice are of course also given to the press.

All individuals or groups who wish to express views about a product on the list are required to file a written memorandum in advance of the hearings. They may appear and present supplemental information and answer questions if they so desire. Though this is not required, most people avail themselves of this opportunity. The material contained in the briefs is kept confidential, but the material elicited as a result of questioning at the public hearings is of course public information.

Copies of the briefs are furnished to the members of the country committee, to the members of the Trade Agreements Committee, and to any other people who may be involved in the conduct of the hearings. The briefs are first analyzed by Government experts on the particular product with which they deal so that the officials who are to conduct the hearings have in advance the result of expert analysis of the brief and suggestions as to additional information to be elicited before or during the hearings.

After the hearing is concluded, the information elicited at the hearing, the information contained in the briefs, and the information in the Government files with respect to each product is then studied by a country committee. The committee makes a recommendation as to whether a concession would be justified and, if so, what the nature of the concession should be. These recommendations are presented to the Trade Agreements Committee, which reviews them item by item, and approves, modifies, or rejects them.

The same process is gone through with respect to concessions to be requested of Country X.

#### HOW DECISIONS ARE ARRIVED AT

The decision in each case is based upon a variety of factors. The Committee considers, for example, the relation of imports to domestic production. Are imports a large part of the amount consumed in the U.S. or a small part? It considers what the trend has been on this point. Have imports been taking an increasing part of the domestic market, a smaller part, or has the relation between imports and domestic production remained substantially stable?

It considers whether the type of product being imported from Country X is a type which is competitive with the domestic product. Is it a specialty, for example, which has a particular appeal because it is imported and no similar product is produced in this country? Is it something which is identical to what we produce and therefore directly competitive? Or does it fall somewhere between these categories?

It considers whether the domestic industry is on an export basis. If, for example, the domestic industry has a large export business, there would be a reasonably clear indication that it is able to compete in third markets with the



foreign product, and therefore a reduction in the tariff would not be likely to cause any injury.

The Committee also takes into account such matters as whether the domestic industry is a large and diversified industry located in many places and producing a wide variety of products, or whether it is an industry concentrating on the particular product involved and located largely in one community. This has an important bearing, of course, upon the possible impact of imports on the domestic industry.

The Committee also considers the national security aspects with respect to particular products.

Then the Committee considers whether it would be desirable or possible to make a concession on only part of the tariff category that may be involved. For example, it might well be that a substantial reduction in the tariff on imports of a product above a certain value would not have any appreciable effect on the domestic industry, whereas a comparable reduction on lower-value products might have a considerable impact.

The Committee may also take into consideration the advisability of making a limited reduction through the use of a tariff quota or other devices. For example, the Committee may decide that a reduced duty should apply to only a specified percentage of average U.S. production of the product. Or, to take another example, the Committee may decide to reduce the duties but to reserve the right to increase the rates if imports exceed a certain percentage of U.S. production of similar products.

All of these factors and others are taken into account in making a recommendation as to a concession on any particular product.

## RECOMMENDATIONS GO TO THE PRESIDENT

The Trade Agreements Committee is very reluctant to recommend a concession which any one of the members feels strongly would be likely to result in serious injury. Sometimes, however, there is a divided view among the members of the Committee. In such a case, the dissenting member or members write out the reasons for their opinion. These are forwarded by the chairman of the Committee direct to the President, together with a statement of the views of the majority and the reasons for that opinion. This is required by the Executive order and is the invariable practice.

The recommendations of the Committee are forwarded direct to the President with a request for his approval. The President considers the recommendations, decides which he will follow in the event of any disagreement, and advises the chairman of the Committee of his decision.

This decision of the President constitutes an instruction to the U.S. negotiators. It authorizes them to make the concessions they recommend provided that they can get from the negotiating country the concessions which they have

recommended the U. S. should ask.

## ACTUAL BARGAINING BEGINS

The next stage is that of negotiation. The negotiation is conducted normally by a team consisting of representatives of the Department of State, the Tariff Commission, and the Department of Commerce. When significant agricultural items are involved, there is usually an adviser from the Department of Agriculture. At other times, there may be a representative from the Department of the Treasury. Other agencies are represented by advisers when their interests are involved.

The offers and requests are presented to the Country X negotiators, and the bargaining takes place around the table, usually for a considerable period of time.

The negotiating team makes the best bargain it can within its instructions and then reports to the Trade Agreements Committee as to whether it believes an agreement possible and makes recommendations to the Committee as to whether any changes in the offers initially authorized or in the requests initially made would, in its opinion, be desirable. The Trade Agreements Committee considers the recommendations of the team and, if it feels that any changes in the original position are desirable, recommends to the President what changes it thinks should be made.

Normally there are changes as a result of the negotiation. If it develops that we are not able to get as much as we feel we should, then we pull back some of our offers. If we are able to get more than we expected but are asked for more in return, the Committee considers whether the bargain would be worth while and whether it could be made without danger.

On the basis of this consideration the Committee makes its recommendations to the President for the final decision. If he approves them, the negotiating team concludes the agreement on that basis.

## BARGAINING WITH SEVERAL COUNTRIES AT ONCE

From 1934 until 1947 the U.S., under the Trade Agreements Act, concluded trade agreements through separate negotiations with each of various foreign countries. Tariff concessions in each agreement were based of course on the trade between the U.S. and the other country involved, although, under the traditional most-favored-nation policy of the U.S., the concessions granted in any agreement applied to the products of all other countries as well. The "general provisions" of the agreements - relating to general trade treatment and designed to safeguard the tariff concessions themselves - differed in some cases, although they were considerably standardized.

But at Geneva in 1947, the U.S. and 22 other countries negotiated tariff concessions simultaneously and agreed to one set of general provisions - those in the General Agreement on Tariffs and Trade concluded then. At Annecy, France, in 1949, nine additional countries exchanged tariff concessions among themselves

and with the original subscribers to the general agreement and thus became contracting parties.

Notwithstanding the number of countries engaged in the negotiations, the same country-with-country bargaining procedure is followed in exchanging tariff concessions. The result is that the number of such two-country negotiations has run into the hundreds. When all have been completed, all the concessions resulting from the separate negotiations are examined and approved by all the participating countries and then integrated into the one agreement.

United States procedure in this bargaining for concessions does not differ under the "multilateral" approach from that used in concluding the earlier separate "bilateral" agreements.

The foregoing paragraphs describe in detail the successive steps followed in considering and reaching decisions on each tariff concession which the U.S. may ask or offer in the course of making a trade agreement. Only after all these stages have been passed does the President make effective, by proclamation, the modifications in U.S. tariffs which the U.S. Government makes in return for corresponding trade-barrier reductions granted by foreign countries and designed to widen their markets for U.S. products.

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